

## ***Ruling 98-02***

Vermont Department of Taxes

Date: June 1, 1998

Written By: George H. Phillips, Tax Policy Analyst

Approved By: Edward W. Haase, Commissioner of Taxes

Your letter of August 12, 1997 asks for a ruling as to whether the Vermont sales and use tax exemption for newspapers, 32 V.S.A. §9741(15), applies to the publication [Name of Publication]. This ruling relies on information provided in your letter and on the January, May, June and August 1997 issues of the publication which were included with the request as representative samples of the publication.

Section 9741(15) provides an exemption from sales and use tax for: "Sales of newspapers and sales of tangible personal property which becomes an ingredient or component part of or is consumed or destroyed, or loses its identity in the manufacture of newspapers, whether sold or distributed without charge. A publication shall not be considered a newspaper unless, on an average for the taxable year, at least ten percent of its printed material consists of news of general or community interest, community notices, editorial comment, or articles by different authors."

"Newspaper" is not defined in the statute except to the extent of the exclusionary language in § 9741(15). The Random House College Dictionary contains the following definition: "Newspaper, n. 1. a publication printed on newsprint, usually issued daily or weekly and commonly containing news, comment, features, photographs, and advertising." The Random House College Dictionary, Revised Edition (1988), p. 897. "Magazine" is defined as follows: "Magazine, n. 1. a publication that is issued periodically, usually bound in a paper cover, and typically containing stories, essays, poems, etc., by many writers, and often photographs and drawings, frequently specializing in a particular subject or area." Ibid, p. 804.

[Name of Publication] is a periodical published monthly and distributed free of charge to the public. It is also mailed to subscribers who have paid a subscription fee. It has a masthead setting out the name of the publisher, editor, circulation number, and place of circulation.

It is printed on 17 inch by 23 inch sheets of newsprint folded so that each sheet contains four 11½ by 17 inch pages. It is not bound. The outside sheet is a higher grade of newsprint. The first (outside) page contains the start of a feature article, an associated picture, a directory of the contents. Across the top of the first page are boxes calling attention to specific features inside. Immediately below these boxes is a large page-wide banner with the publication's name, volume and number. A typical edition contains

twenty, twenty-four, or twenty-eight pages. One of the sample issues also includes an insert 1997 Official Race Results, KeyBank Vermont City Marathon.

The publication specializes in coverage of Vermont sports. The headings in the directory of contents on the first page identify the type of material typically included. These headings are: Business Directory, Calendar, Classified, Columns, Features, and Race Results. Race results are presented as tables showing finishers and their times. Feature articles and columns often present issues of current interest but none are typical news reports of recent events.

The columns and features each month include articles by several different authors, including commentary by the publication's editor and by others. These articles consistently constitute more than 10% of the material in the publication.

[Name of Publication] is clearly either a newspaper or a magazine. This is established by its masthead, periodic publication, use of articles by different authors and features of interest to the Vermont sports community. The definitions above suggest several characteristics distinguishing newspapers from magazines:

1. Newspapers are printed frequently, usually daily or weekly; magazines are printed less frequently, usually monthly or quarterly.
2. Newspapers are printed on newsprint; magazines are printed on more durable paper.
3. Newspapers are not bound; magazines are usually bound in a paper cover.
4. Newspapers usually do not limit themselves to a special subject area; magazines frequently do.
5. Newspapers contain news, that is, they report current events; magazines may limit themselves to feature articles, essays, commentary and similar items not subject to becoming outdated immediately after the publication date.

Considering the five characteristics contrasted above, [Name of Publication] more closely fits the definition of a newspaper than a magazine. Although it is published monthly, it is printed on newsprint and is unbound. The specialized subject area is disregarded as "news of general or community interest" in section 9742(15) arguably refers to community both in a municipal or physical sense and in the sense of persons bound by common interest, e.g., the running community or the music community, or business community. Finally [Name of Publication] contains current sports news although not as current as the news reported in daily newspapers. Therefore, sales of the publication are exempt from Vermont sales and use tax pursuant to 32 V.S.A. §9741(15).

This ruling is issued solely to you and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling

in the case of any other taxpayer or in case of any change in the relevant statutes and regulations.